

House Engrossed Senate Bill

**FILED**

**MICHELE REAGAN**

**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 112**

# **SENATE BILL 1183**

AN ACT

AMENDING SECTIONS 49-104, 49-333, 49-833 AND 49-905, ARIZONA REVISED STATUTES; REPEALING SECTION 49-968, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-104, Arizona Revised Statutes, is amended to  
3 read:

4 49-104. Powers and duties of the department and director

5 A. The department shall:

6 1. Formulate policies, plans and programs to implement this title  
7 to protect the environment.

8 2. Stimulate and encourage all local, state, regional and federal  
9 governmental agencies and all private persons and enterprises that have  
10 similar and related objectives and purposes, cooperate with those  
11 agencies, persons and enterprises and correlate department plans, programs  
12 and operations with those of the agencies, persons and enterprises.

13 3. Conduct research on its own initiative or at the request of the  
14 governor, the legislature or state or local agencies pertaining to any  
15 department objectives.

16 4. Provide information and advice on request of any local, state or  
17 federal agencies and private persons and business enterprises on matters  
18 within the scope of the department.

19 5. Consult with and make recommendations to the governor and the  
20 legislature on all matters concerning department objectives.

21 6. Promote and coordinate the management of air resources to ensure  
22 their protection, enhancement and balanced utilization consistent with the  
23 environmental policy of this state.

24 7. Promote and coordinate the protection and enhancement of the  
25 quality of water resources consistent with the environmental policy of  
26 this state.

27 8. Encourage industrial, commercial, residential and community  
28 development that maximizes environmental benefits and minimizes the  
29 effects of less desirable environmental conditions.

30 9. Ensure the preservation and enhancement of natural beauty and  
31 man-made scenic qualities.

32 10. Provide for the prevention and abatement of all water and air  
33 pollution including that related to particulates, gases, dust, vapors,  
34 noise, radiation, odor, nutrients and heated liquids in accordance with  
35 article 3 of this chapter and chapters 2 and 3 of this title.

36 11. Promote and recommend methods for the recovery, recycling and  
37 reuse or, if recycling is not possible, the disposal of solid wastes  
38 consistent with sound health, scenic and environmental quality policies.  
39 Beginning in 2014, the department shall report annually on its revenues  
40 and expenditures relating to the solid and hazardous waste programs  
41 overseen or administered by the department.

42 12. Prevent pollution through the regulation of the storage,  
43 handling and transportation of solids, liquids and gases that may cause or  
44 contribute to pollution.

1           13. Promote the restoration and reclamation of degraded or  
2 despoiled areas and natural resources.

3           14. Assist the department of health services in recruiting and  
4 training state, local and district health department personnel.

5           15. Participate in the state civil defense program and develop the  
6 necessary organization and facilities to meet wartime or other disasters.

7           16. Cooperate with the Arizona-Mexico commission in the governor's  
8 office and with researchers at universities in this state to collect data  
9 and conduct projects in the United States and Mexico on issues that are  
10 within the scope of the department's duties and that relate to quality of  
11 life, trade and economic development in this state in a manner that will  
12 help the Arizona-Mexico commission to assess and enhance the economic  
13 competitiveness of this state and of the Arizona-Mexico region.

14           17. Unless specifically authorized by the legislature, ensure that  
15 state laws, rules, standards, permits, variances and orders are adopted  
16 and construed to be consistent with and no more stringent than the  
17 corresponding federal law that addresses the same subject matter. This  
18 paragraph shall not be construed to adversely affect standards adopted by  
19 an Indian tribe under federal law.

20           18. Provide administrative and staff support for the oil and gas  
21 conservation commission.

22           B. The department, through the director, shall:

23           1. Contract for the services of outside advisers, consultants and  
24 aides reasonably necessary or desirable to enable the department to  
25 adequately perform its duties.

26           2. Contract and incur obligations reasonably necessary or desirable  
27 within the general scope of department activities and operations to enable  
28 the department to adequately perform its duties.

29           3. Utilize any medium of communication, publication and exhibition  
30 when disseminating information, advertising and publicity in any field of  
31 its purposes, objectives or duties.

32           4. Adopt procedural rules that are necessary to implement the  
33 authority granted under this title, but that are not inconsistent with  
34 other provisions of this title.

35           5. Contract with other agencies, including laboratories, in  
36 furthering any department program.

37           6. Use monies, facilities or services to provide matching  
38 contributions under federal or other programs that further the objectives  
39 and programs of the department.

40           7. Accept gifts, grants, matching monies or direct payments from  
41 public or private agencies or private persons and enterprises for  
42 department services and publications and to conduct programs that are  
43 consistent with the general purposes and objectives of this chapter.  
44 Monies received pursuant to this paragraph shall be deposited in the

1 department fund corresponding to the service, publication or program  
2 provided.

3 8. Provide for the examination of any premises if the director has  
4 reasonable cause to believe that a violation of any environmental law or  
5 rule exists or is being committed on the premises. The director shall  
6 give the owner or operator the opportunity for its representative to  
7 accompany the director on an examination of those premises. Within  
8 forty-five days after the date of the examination, the department shall  
9 provide to the owner or operator a copy of any report produced as a result  
10 of any examination of the premises.

11 9. Supervise sanitary engineering facilities and projects in this  
12 state, authority for which is vested in the department, and own or lease  
13 land on which sanitary engineering facilities are located, and operate the  
14 facilities, if the director determines that owning, leasing or operating  
15 is necessary for the public health, safety or welfare.

16 10. Adopt and enforce rules relating to approving design documents  
17 for constructing, improving and operating sanitary engineering and other  
18 facilities for disposing of solid, liquid or gaseous deleterious matter.

19 11. Define and prescribe reasonably necessary rules regarding the  
20 water supply, sewage disposal and garbage collection and disposal for  
21 subdivisions. The rules shall:

22 (a) Provide for minimum sanitary facilities to be installed in the  
23 subdivision and may require that water systems plan for future needs and  
24 be of adequate size and capacity to deliver specified minimum quantities  
25 of drinking water and to treat all sewage.

26 (b) Provide that the design documents showing or describing the  
27 water supply, sewage disposal and garbage collection facilities be  
28 submitted with a fee to the department for review and that no lots in any  
29 subdivision be offered for sale before compliance with the standards and  
30 rules has been demonstrated by approval of the design documents by the  
31 department.

32 12. Prescribe reasonably necessary measures to prevent pollution of  
33 water used in public or semipublic swimming pools and bathing places and  
34 to prevent deleterious conditions at such places. The rules shall  
35 prescribe minimum standards for the design of and for sanitary conditions  
36 at any public or semipublic swimming pool or bathing place and provide for  
37 abatement as public nuisances of premises and facilities that do not  
38 comply with the minimum standards. The rules shall be developed in  
39 cooperation with the director of the department of health services and  
40 shall be consistent with the rules adopted by the director of the  
41 department of health services pursuant to section 36-136, subsection H,  
42 paragraph 10.



1           13. Prescribe reasonable rules regarding sewage collection,  
2 treatment, disposal and reclamation systems to prevent the transmission of  
3 sewage borne or insect borne diseases. The rules shall:

4           (a) Prescribe minimum standards for the design of sewage collection  
5 systems and treatment, disposal and reclamation systems and for operating  
6 the systems.

7           (b) Provide for inspecting the premises, systems and installations  
8 and for abating as a public nuisance any collection system, process,  
9 treatment plant, disposal system or reclamation system that does not  
10 comply with the minimum standards.

11           (c) Require that design documents for all sewage collection  
12 systems, sewage collection system extensions, treatment plants, processes,  
13 devices, equipment, disposal systems, on-site wastewater treatment  
14 facilities and reclamation systems be submitted with a fee for review to  
15 the department and may require that the design documents anticipate and  
16 provide for future sewage treatment needs.

17           (d) Require that construction, reconstruction, installation or  
18 initiation of any sewage collection system, sewage collection system  
19 extension, treatment plant, process, device, equipment, disposal system,  
20 on-site wastewater treatment facility or reclamation system conform with  
21 applicable requirements.

22           14. Prescribe reasonably necessary rules regarding excreta storage,  
23 handling, treatment, transportation and disposal. The rules ~~shall~~ MAY:

24           (a) Prescribe minimum standards for human excreta storage,  
25 handling, treatment, transportation and disposal and shall provide for  
26 inspection of premises, processes and vehicles and for abating as public  
27 nuisances any premises, processes or vehicles that do not comply with the  
28 minimum standards.

29           (b) Provide that vehicles transporting human excreta from privies,  
30 septic tanks, cesspools and other treatment processes shall be licensed by  
31 the department subject to compliance with the rules. The department may  
32 require payment of a fee as a condition of licensure. ~~After July 20,~~  
33 ~~2011,~~ The department ~~shall~~ MAY establish by rule a fee as a condition of  
34 licensure, including a maximum fee. As part of the rulemaking process,  
35 there must be public notice and comment and a review of the rule by the  
36 joint legislative budget committee. After September 30, 2013, the  
37 department shall not increase that fee by rule without specific statutory  
38 authority for the increase. The fees shall be deposited, pursuant to  
39 sections 35-146 and 35-147, in the solid waste fee fund established by  
40 section 49-881.

41           15. Perform the responsibilities of implementing and maintaining a  
42 data automation management system to support the reporting requirements of  
43 title III of the superfund amendments and reauthorization act of 1986  
44 (P.L. 99-499) and article 2 of this chapter.

1       16. Approve remediation levels pursuant to article 4 of this  
2 chapter.

3       17. Establish or revise fees by rule pursuant to the authority  
4 granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this  
5 title for the department to adequately perform its duties. All fees shall  
6 be fairly assessed and impose the least burden and cost to the parties  
7 subject to the fees. In establishing or revising fees, the department  
8 shall base the fees on:

9       (a) The direct and indirect costs of the department's relevant  
10 duties, including employee salaries and benefits, professional and outside  
11 services, equipment, in-state travel and other necessary operational  
12 expenses directly related to issuing licenses as defined in title 41,  
13 chapter 6 and enforcing the requirements of the applicable regulatory  
14 program.

15       (b) The availability of other funds for the duties performed.

16       (c) The impact of the fees on the parties subject to the fees.

17       (d) The fees charged for similar duties performed by the  
18 department, other agencies and the private sector.

19       18. Appoint a person with a background in oil and gas conservation  
20 to act on behalf of the oil and gas conservation commission and administer  
21 and enforce the applicable provisions of title 27, chapter 4 relating to  
22 the oil and gas conservation commission.

23       C. The department may:

24       1. Charge fees to cover the costs of all permits and inspections it  
25 performs to ensure compliance with rules adopted under section 49-203,  
26 except that state agencies are exempt from paying the fees. Monies  
27 collected pursuant to this subsection shall be deposited, pursuant to  
28 sections 35-146 and 35-147, in the water quality fee fund established by  
29 section 49-210.

30       2. Contract with private consultants for the purposes of assisting  
31 the department in reviewing applications for licenses, permits or other  
32 authorizations to determine whether an applicant meets the criteria for  
33 issuance of the license, permit or other authorization. If the department  
34 contracts with a consultant under this paragraph, an applicant may request  
35 that the department expedite the application review by requesting that the  
36 department use the services of the consultant and by agreeing to pay the  
37 department the costs of the consultant's services. Notwithstanding any  
38 other law, monies paid by applicants for expedited reviews pursuant to  
39 this paragraph are appropriated to the department for use in paying  
40 consultants for services.

41       D. The director may:

42       1. If the director has reasonable cause to believe that a violation  
43 of any environmental law or rule exists or is being committed, inspect any  
44 person or property in transit through this state and any vehicle in which

1 the person or property is being transported and detain or disinfect the  
2 person, property or vehicle as reasonably necessary to protect the  
3 environment if a violation exists.

4 2. Authorize in writing any qualified officer or employee in the  
5 department to perform any act that the director is authorized or required  
6 to do by law.

7 Sec. 2. Section 49-333, Arizona Revised Statutes, is amended to  
8 read:

9 49-333. Regulation of dry wells; license to drill

10 A. The director may adopt rules establishing standards for new and  
11 existing dry wells pertaining to their performance, operation,  
12 construction, design, closure, location and inspection.

13 B. Dry wells shall not be used for the disposal of hazardous  
14 substances as defined in the comprehensive environmental response,  
15 compensation, and liability act (P.L. 96-510), as amended, or oil as  
16 defined in the federal water pollution control act (P.L. 92-500), as  
17 amended.

18 C. New dry well construction, ~~including~~ AND modifications of  
19 existing dry wells, ~~shall be performed under the direct and personal~~  
20 ~~supervision of a well driller who holds a dry well driller's AN~~  
21 ~~APPROPRIATE CONTRACTOR'S license issued under this section PURSUANT TO~~  
22 ~~TITLE 32, CHAPTER 10. A person who intends to construct or modify one or~~  
23 ~~more dry wells in this state shall file an application for a dry well~~  
24 ~~driller's license with the director. The application shall include:~~

25 ~~1. The name, mailing address and place of business of the~~  
26 ~~applicant.~~

27 ~~2. The applicant's experience and qualifications.~~

28 ~~3. Such other information as the director may require.~~

29 ~~D. The director shall, by rule, establish qualifications and a~~  
30 ~~reasonable fee of not more than fifty dollars for licenses for dry well~~  
31 ~~drillers and establish procedures for the evaluation and licensing of~~  
32 ~~applicants. The rules shall establish qualifications for the protection~~  
33 ~~of the public and shall include knowledge in the areas of location,~~  
34 ~~design, construction, operation, maintenance and closure of dry wells. A~~  
35 ~~nontransferable dry well driller's license shall be issued if the director~~  
36 ~~finds that the applicant meets the qualifications established by the~~  
37 ~~director. The director may revoke a well driller's license for good~~  
38 ~~cause.~~

39 Sec. 3. Section 49-833, Arizona Revised Statutes, is amended to  
40 read:

41 49-833. Public education

42 A. By May 1, 1992, the department, in consultation with the state  
43 board of education, shall implement and conduct a program of public  
44 education and provide information to increase awareness of individual



1 responsibility for properly reducing and disposing of solid waste and to  
2 encourage participation in recycling, reuse and source reduction. The  
3 program shall communicate the importance of conserving natural resources,  
4 of avoiding harm to the environment or public health and of promoting  
5 resource conservation, recovery and reuse by industry, this state,  
6 municipalities and counties. The program shall also inform the public of  
7 the potential benefits of collecting and recycling potentially hazardous  
8 materials including used oil, batteries and waste tires.

9 B. The department is the lead agency and promoter for all state  
10 programs that provide technical assistance for public education programs.  
11 In addition to these coordinating functions, the department shall  
12 encourage recycling and source reduction by:

13 1. Providing advice and consultation to persons, businesses and  
14 manufacturers on recycling and source reduction techniques.

15 2. Sponsoring or cosponsoring with public or private organizations  
16 technical workshops and seminars on recycling and source reduction.

17 3. Administering a recycling and source reduction data base and  
18 hotline providing referral services to waste generators.

19 4. Promoting recycling and the use of recycled products.

20 5. Administering a recycling and source reduction research and  
21 development program.

22 6. Coordinating a recycling and source reduction public education  
23 and advertising program that includes the use of existing publications  
24 from public and private sources, as well as publishing necessary new  
25 materials on source reduction.

26 7. Recommending to educational institutions courses and curricula  
27 in areas related to recycling and source reduction or encouraging the  
28 development of courses in managing solid waste.

29 ~~C. The department shall establish or adopt, by rule, an official~~  
30 ~~recycling emblem and conduct a consumer awareness program with respect to~~  
31 ~~that emblem. Rules may stipulate prohibitions on the unauthorized use of~~  
32 ~~the recycling emblem.~~

33 Sec. 4. Section 49-905, Arizona Revised Statutes, is amended to  
34 read:

35 49-905. Rules; duty of director

36 The director of the department of environmental quality shall adopt  
37 rules governing hazardous waste disposal facilities established pursuant  
38 to this article. Rules issued under this section shall include provisions  
39 relating to:

40 ~~1. Travel routes for the transportation of hazardous wastes within~~  
41 ~~this state. The director shall require any person transporting hazardous~~  
42 ~~waste to the hazardous waste disposal facility to approach the facility~~  
43 ~~from the east or west on established public roads and highways.~~



1       ~~2.~~ 1. The types and amounts of hazardous wastes to be accepted for  
2 disposal by hazardous waste disposal facilities established pursuant to  
3 this article.  
4       ~~3.~~ 2. Perpetual care as necessary and post-closure maintenance of  
5 hazardous waste disposal facilities established pursuant to this article.  
6       Sec. 5. Repeal  
7       Section 49-968, Arizona Revised Statutes, is repealed.

**APPROVED BY THE GOVERNOR MARCH 29, 2017.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2017.**

Passed the House March 20, 20 17,

Passed the Senate February 14, 20 17,

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

1 Nays, 3 Not Voting

0 Nays, 0 Not Voting

H. R. Brady Jr.  
Speaker of the House  
Pro Tempore  
Jim Drake  
Chief Clerk of the House

Steven B. Jochims  
President of the Senate  
Susan Owens  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

S.B. 1183

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State


SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 28, 2017

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

  
President of the Senate

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

28 day of March, 2017

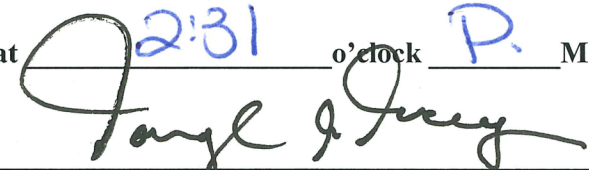
at 3:06 o'clock P. M.

  
Secretary to the Governor

Approved this 29th day of

March, 2017

at 2:31 o'clock P. M.

  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29 day of March, 2017

at 4:59 o'clock P. M.

  
Secretary of State